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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,668	03/25/2004	James T. Beaty	3921	6207

22474 7590 05/18/2006

DOUGHERTY CLEMENTS  
1901 ROXBOROUGH ROAD  
SUITE 300  
CHARLOTTE, NC 28211

EXAMINER
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EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/808,668	Applicant(s) BEATY, JAMES T.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2006.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7 and 9-40 is/are pending in the application.
- 4a) Of the above claim(s) 18-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7 and 9-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Priority***

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. [1] as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60/457,356, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. There is no support in the prior-filed application for a cover having reverse-side printed images or double coated pressure sensitive adhesive with a carrier film or a protective removable release liner.

### ***Claim Objections***

2. Claim 11 is objected to because of the following informalities: "cover is fastened" (line 2) should read --cover is capable of being fastened-- such that the subject matter

of the preamble of the claim is consistent with the limitations recited in the body of the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4, 5, and 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Table Toppers - Your Child's Placement, webpage [http://www.pricetool.com/content\\_74214903428/](http://www.pricetool.com/content_74214903428/) in view of U.S. Patent No. 6,652,947 B2 to Sweeney et al.

Table Toppers - Your Child's Placement discloses a cover that is basically the same as that recited in claims 1, 2, 4, 5, and 9-17 except that the cover lacks a medial perforation, as recited in the claims. See Pages 1 and 2 of Table Toppers - Your Child's Placement for the teaching that the cover is a rectangular, flexible planar sheet of sanitary polymeric film having a backside with printed images forming an activity center, left and right lateral edges, first and second edge lengths, and coated pressure sensitive adhesive strips on the rear of the sheet adjacent the left and right lateral edges extending from the first and second edges wherein the film is substantially transparent, the images are potentially entertaining cartoon characters, and the cover is *capable of*

fastening to a grocery cart with leg openings such that its handle and restraint railing is covered and the adhesive strips are allowed to fasten face-to-face.

Sweeney et al. disclose a cover similar to that of Table Toppers - Your Child's Placement wherein the rectangular polymeric sheet (see Fig. 1) has a tearable perpendicular plurality of perforations 18a that initiate from a point about midway along edges of the sheet. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cover of Table Toppers - Your Child's Placement such that the sheet has a tearable perpendicular plurality of perforations that initiates from a point about midway along the second edge length and extends toward the first edge length to partially bisect the sheet wherein the tearing of the plurality of perforations would result in two tails that can accept a supporting rod and provide a barrier covering, such as the cover disclosed by Sweeney et al. One would have been motivated to make such a modification in view of the suggestion in Sweeney et al. that the perforated cover provides a barrier protecting against food spills by an infant wherein the perforations allow the cover to wrap around rods/legs of infant support structures.

Although the plastic of the cover is not specifically recited, the type of image printing is not specified, and the depositing-type of coated adhesive is not specified, modifying the cover material, the printing method, and adhesive material would have been obvious at the time of Applicant's invention because the use of preferred materials discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the material of the cover

to be polyethylene or polypropylene since the Applicant has not disclosed that having the specific material solves any stated problem or is for any particular purpose and it appears that the cover would perform equally well with an well known material used in the art. Also, it would have been an obvious matter of design choice to modify the printing method as the cover would perform equally well with any well know method to print images such that the ink of the printing will not be in direct contact with a child user. Lastly, it would have been an obvious matter of design choice to modify the depositing-type of adhesive as the cover would perform equally well with any well know type of coated adhesive such that the cover can be removed without leaving a residue and the adhesive can be single, double, or triple coated.

5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Table Toppers - Your Child's Placement in view of Sweeney et al. as applied to claims 1, 2, 4, 5, and 9-17 above, and further in view of U.S. Patent No. 4,769,024 to Pike et al.

Table Toppers - Your Child's Placement, as modified, discloses a cover that is basically the same as that recited in claims 6 and 7 except that the adhesive strips lack a reinforcing carrier film and release liners, as recited in the claims. Pike et al. shows a cover similar to that of Table Toppers - Your Child's Placement wherein the cover has adhesive (see Fig. 4) with a reinforcing carrier film and a removable liner 20 with a finger lift. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the cover of Table Toppers - Your Child's Placement such that the pressure sensitive adhesive has a reinforcing carrier film and protected with a removable release liner wider than the adhesive creating a

void facilitating a finger lift, such as the sheet disclosed in Pike et al. One would have been motivated to make such a modification in view of the suggestion in Pike et al. that the carrier film of the adhesive provides a plateau effect in adhesive strength values and the liner protects the adhesive prior to use.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 2, 4-7, and 9-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to covers:


U.S. Pat. No. 2,313,311 to Arter, Jr. et al. U.S. Pat. No. 3,332,547 to Rowe et al.


Health News, webpage <http://www.detnews.com/2002/health/0205/25/h03-495543.htm>

Table Topper, webpage <http://www.tabletopper.com>

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JE  
May 12, 2006

  
**Peter M. Cuomo**  
Supervisory Patent Examiner  
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